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## BEFORE THE ARIZONA CORPORATION COMMISSION

~~Arizona Corporation Commission~~ AZ CORP COMMISSION

JIM IRVIN

Commissioner -- Chairman

RENZ D. JENNINGS

Commissioner

CARL J. KUNASEK

Commissioner

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OCT 8 1998

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Arizona Consumers Council Comments on ACC Electric Competition Rule

We wish to thank the Arizona Corporation Commission for the opportunity to participate in the Special Open Meeting held Wednesday, October 7, 1998.

Our concerns are principally 1) that the Commission prepare to educate electric customers regarding competition as an objective third party, and 2) that the Commission continue collecting all the information that it has in the past regarding rates, contracts, etc., so that corrections can be made if competition turns out not to be fair to residential, small business, rural and/or low-income customers.

Our President, Phyllis Rowe, attended a national conference on electric deregulation at which some useful items were distributed. Enclosed is information that was prepared in other states. These materials relate to consumer protection in the deregulation process. Many are partially or substantially adopted in Commission rules. Nevertheless these materials provide an informative checklist by which the rules can be checked.

Enclosed are:

Alliance to Protect Electricity Consumers: Statement of Principles regarding Electric Industry Deregulation, February 12, 1998. Attached pages 1,2,3, 9,10,11,12,14, and 15.

Model Electric Restructuring Bill (speech outline), Consumer Federation of America, Washington, D.C., October 2, 1998, Jerrold Oppenheim, National Consumer Law Center. Attached pages 3/16, 8/16, 4 and 5.

Principles for Consumer Protection in Electricity Restructuring, prepared by Dr. Mark N. Cooper, Director of Research, Consumer Federation of America. 9 pages. (Note that Mark Cooper was our expert witness during the Stranded Cost Hearings.)

The Real Consumer Protections in Electric Restructuring (w/o further identity). 3 pages.

The Virginia Residential Electric Consumer Bill of Rights, 7/30/1998. 2 pages.

*Submitted October 8, 1998 by Barbara Sherman for the Arizona Consumer Council*

# Alliance to Protect Electricity Consumers

## Statement of Principles *regarding* Electric Industry Deregulation

February 12, 1998

*See pp. 9, 10, 11, 12, 14, 15*

**The Alliance to Protect Electricity Consumers**  
**Statement of Principles**  
February 12, 1998

## **Reliability**

Many electric power companies, preparing for competitive challenges, are cutting costs and deferring maintenance. Such cost-cutting could result in systems so overstretched they may not be able to operate efficiently in times of peak demand or during storms. ✕

Industry restructuring must ensure an adequate generation supply and reliable transmission service. Our electricity systems are highly interdependent and complex operations. Reliability depends on the cooperation of all entities using the systems and a well-trained workforce.

Electrical industry groups now maintain interstate reliability through voluntary adherence to agreed upon guidelines. Early indications show that competition among utilities is already overshadowing the prior tradition of cooperation, and some utilities have cut their maintenance staffs and schedules to cut costs.

### **To protect consumers from unreliable service:**

- The roles of state, regional, and federal regulatory authorities must be clearly defined. Primary oversight and enforcement for interstate reliability must be established at the regional or federal level. ✓
- Mandatory national and regional reliability rules and standards should be developed in collaboration with transmission providers, transmission users, consumers and other interested parties. ✓
- An industry-wide umbrella group, such as the North American Electric Reliability Council (or some successor group) should implement such national standards, but any such group should be subject to the oversight, approval and dispute resolution powers of the Federal Energy Regulatory Commission. ✓
- All retail power supply providers in a restructured industry must comply with reliability and minimum quality of service standards. ✓
- Measures must be taken to assure adequate generation reserves. ✓

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**The Alliance to Protect Electricity Consumers**  
**Statement of Principles**  
February 12, 1998

## **Safety**

Worker safety and public safety could be threatened by continued cost cutting.

One likely outcome of electric industry deregulation will be a de-emphasis of public and worker safety as the emphasis shifts to maintaining and increasing profits. Staffing levels and training programs have been the first areas cut when deregulation has occurred in other industries. Work force reductions and scaling back of training programs are already occurring as companies jockey for competitive position.

Electricity service is provided in close proximity to people. It can be extremely dangerous unless conducted properly. In general, industry workers, management and regulators have achieved an exemplary safety record. A long history of proper training and appropriate investments in public safety and worker safety is responsible for that record.

The foundation for the industry-wide safety record is a system of voluntary consensus standards developed through the joint efforts of all segments of the electric utility industry. Some of these consensus standards, such as the National Electrical Safety Code and the National Electrical Code, have become mandatory through enactment by state legislatures. Others form the foundation for the setting of mandatory standards by federal regulatory agencies.

Under the present regulatory framework, funding for this safety culture is borne by electric utility companies, which pass on much of the cost through the rate structure to the consumer. With industry deregulation, funding for public and worker safety programs could be cut substantially. ✕

### **To assure continued public and worker safety:**

- All aspects of the continued development of safety codes and standards must continue to be fully funded by all sectors of the electricity industry. ✓
- Consensus on safety codes and standards must be continually developed by qualified, experienced industry and labor representatives. ✓
- Unregulated generating plants must be subject to state and federal general industry OSHA requirements and must undergo periodic government inspection. ✓

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**The Alliance to Protect Electricity Consumers**  
**Statement of Principles**  
February 12, 1998

## **Societal Impacts**

Valuable community-based programs funded by local power companies are being placed at risk. They include lifeline rates, low income assistance, wildlife preservation, service cut off protections, and community services such as lighting for playgrounds, athletic fields, and holiday lighting.

Under the traditional regulatory structure, power companies have provided programs such as community lighting and wildlife preservation. Even under the current regulatory structure, however, government and utility-sponsored programs designed to keep the lights on for people with low incomes have been inadequate. For deregulation to benefit residential customers, a comprehensive program, like that existing in the telecommunications industry, must be implemented.

Similarly, while most existing power companies have service cut-off protection programs, the adequacy of such programs should be ensured. Such programs must be applicable to all retail suppliers.

### **Deregulation should enhance and protect public benefit programs by:**

- Providing reasonable incentives to power companies, existing and new, to provide community lighting services for playgrounds, athletic fields and other similar public service programs. ✓
- Including a comprehensive program of low income assistance, including lifeline rates, subsidies and assistance with hook-ups. ✓
- Requiring all retail suppliers to have an adequate program ensuring that service will not be terminated unfairly or during extreme weather. ✓

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**The Alliance to Protect Electricity Consumers**  
**Statement of Principles**  
February 12, 1998

## **Stranded Costs**

Under rapid, radical deregulation, some electric power companies may not be able to recover the costs they incurred to provide electric service. The signers of this document differ in their views as to whether stranded cost recovery is necessary or appropriate. All agree, however, that restructuring should not proceed unless all customer classes benefit.

If deregulation is adopted, utilities might not be able to recover the costs they have incurred to provide service, especially investments in generation facilities that produce electricity at prices now above the prevailing market price.

APEC members have widely varying views on whether utility recovery of these stranded costs is appropriate. Groups representing consumers believe utilities should absorb all or a substantial portion of these costs because the utilities chose to make the investments. Groups representing publicly- and consumer-owned utilities believe recovery of costs stranded as a result of deregulation is generally appropriate, because utilities were required to build facilities sufficient to serve all retail consumers in their service territories.

**Despite these widely varying views, the members of APEC do agree on certain fundamental points:**

- Stranded cost amounts should be based on actual market prices over time, or the actual sales price buyers pay for "stranded facilities" when sold in arms-length transactions. Stranded cost recovery should not include "phantom" stranded costs that do not materialize. ✓
- Stranded cost calculations should be carefully examined to make sure that utility costs are not recovered twice. For example, tax costs already collected through deferred tax mechanisms should not be collected again. ✓
- Utilities should not earn a profit on stranded assets through stranded cost recovery.
- Stranded cost allowances should actually be used to address stranded cost issues and not for other purposes, such as overseas investments or purchase of competitors.
- Human stranded costs, i.e., the cost of worker assistance and retraining, should be considered a legitimate, recoverable stranded cost.
- Large industrial customers must pay their fair share of stranded costs. ✓
- Stranded cost recovery should not subsidize future operating costs of stranded plants. ✓

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**The Alliance to Protect Electricity Consumers**  
**Statement of Principles**  
February 12, 1998

## **Tax Revenues**

Currently, electric power companies contribute significantly to the local tax base. In a deregulated industry, this tax revenue could dry up or drop considerably. ✓

State and local taxes imposed on electric utilities may include gross receipts taxes, income taxes, franchise fees, and property taxes that may be applied differently than those imposed on other businesses. Taxes imposed on utility customers, but collected and remitted by the utility, include sales taxes, use taxes, and utility user taxes. In many states, the aggregate level of taxation on utilities is significantly greater than that imposed on other businesses.

Much of the existing tax regime for electric utilities could become obsolete under deregulation. Deregulation will present three basic tax issues for state and local governments:

1. Revenues could decline in many jurisdictions. This could result from lower electricity prices, a shift in market share from more to less heavily taxed service providers who may be located out of state, and from declining values of property owned by utilities.
2. If utilities continue to be taxed on different bases than other electricity providers, these tax variations will create a very different economic effect in a deregulated industry than under prior cost of service regulation. Taxes which utilities previously recovered as a matter of course under cost of service regulation may become unrecoverable, as consumers choose different electricity providers to avoid the payment of these taxes.
3. If existing tax laws are changed, local jurisdictions could lose control of the tax revenues.

### **To protect consumers:**

- No deregulation plan should increase the tax burden of residential and small business consumers or cause reductions in tax-supported services, such as police, fire, and schools. ✓
- Governments considering deregulation must also consider what tax reforms are necessary to prevent the loss of local control or the increase of taxes on individual and small business consumers. ✓

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**The Alliance to Protect Electricity Consumers**  
**Statement of Principles**  
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## **Universal Service**

Deregulated electric power companies and new competitive power suppliers may not be obligated or motivated to serve low income customers or customers that need electricity in inner cities, rural areas, or regions suffering economic trouble. Service quality could deteriorate below acceptable standards.

Not every electricity customer is equally profitable to serve. Not every area costs the same to serve. In a deregulated industry, electricity service sellers that operate solely on a for-profit basis may be allowed to choose freely whom they will serve and the rate they will charge each customer. If they do, they can be expected to segregate customers by geographic area, past credit records and income level, and to sell to the most attractive customers. If they do, what quality of service at what price can people in high-cost, difficult to serve, areas expect? How will people with lower incomes be assured they can afford electric service? Unless these questions are equitably resolved, deregulation will not benefit the whole nation.

### **Before deregulation is adopted, there must be assurance that:**

- All consumers will have access to reliable, non-interruptible electric service at reasonable, affordable prices. ✓
- Customers are not left without a power supplier and do not have to endure price-gouging simply because they have no other supplier. ✓
- Low-income customers are not discriminated against or priced out of the market. ✓

### **To assure these outcomes, any deregulation plan should:**

- Require all providers of electric distribution service to offer to install facilities needed to connect all customers in their service territories. ✓
- Require suppliers to offer service to all customers in a specified geographic area, or designate a "supplier of last resort" to provide service at a reasonable price to those consumers without a reasonable choice of suppliers. ✓
- Prohibit "redlining" or other discrimination against low income consumers. ✓
- Include a universal service fund to help defray the costs of serving lower income consumers and those consumers in rural or high cost areas. ✓

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# **MODEL ELECTRIC RESTRUCTURING BILL**

*see pages 3/16, 8/16, 4, 5*

**CONSUMER FEDERATION OF  
AMERICA  
WASHINGTON, D.C.  
OCTOBER 2, 1998**

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# **PRICE**

- **RESTRUCTURING MUST BE GOOD FOR CONSUMERS**

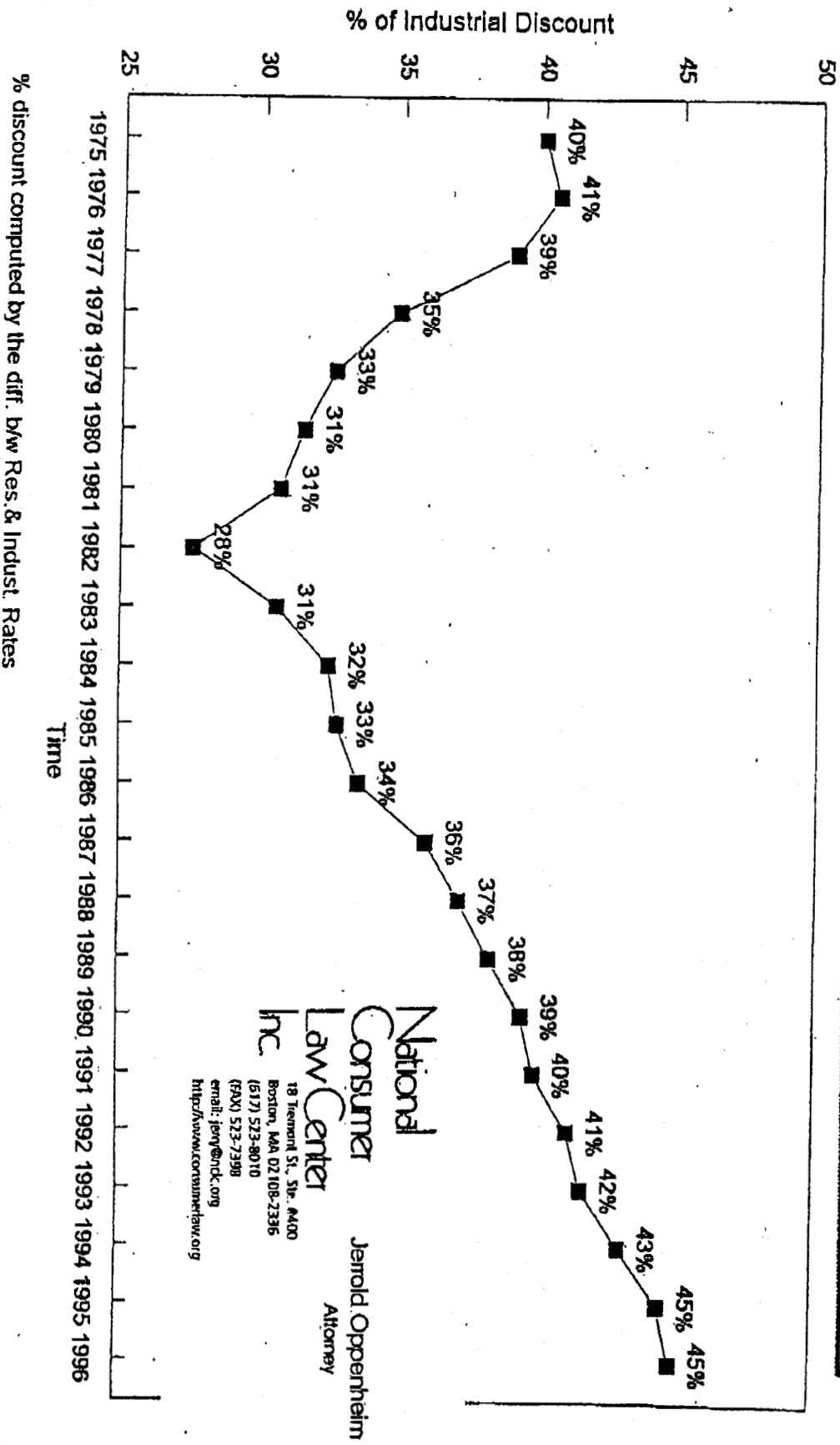
- ✓ • **IN OTHER INDUSTRIES, DEREGULATION RAISED CONSUMER PRICES**

- ✓ • **THERE MUST BE PROTECTION IN CASE THE MARKETPLACE DOES NOT WORK FOR CONSUMERS**

Source: Annual Energy Review 1996: Table B.11, EIA



# US Average % Discount per kWh for Industrial Customers





## **UNIVERSAL SERVICE**

**LOW-INCOME DISCOUNT**





**LOW-INCOME CONSERVATION**

### **ELIGIBILITY**

#### **OUTREACH**

-  **COMPUTER MATCH**
-  **AUTOMATIC ENROLLMENT**
-  **EDUCATION**

#### **REDLINING**

-  **GUARANTEE CREDIT**
-  **PROHIBIT**
-  **SERVICE LIMITERS**
-  **PREPAYMENT**

## **CONSUMER PROTECTIONS**



# **STRANDED COSTS**

- **NET MITIGABLE**
- **PRUDENT, USED AND USEFUL**
- **NON-BY-PASSABLE**
- **ALLOCATION**
- **NO SECURITIZATION**



# Consumer Federation of America

## PRINCIPLES FOR CONSUMER PROTECTION IN ELECTRICITY RESTRUCTURING

PREPARED BY  
DR. MARK N. COOPER  
DIRECTOR OF RESEARCH

### I. OVERALL GOALS

1. Effective Competition
2. Universal Service
3. Consumer Protection

### II. PRINCIPLES FOR MARKET STRUCTURAL REFORM

#### A. PROMOTING COMPETITION

1. Minimize Potential Impacts Of Market Power
2. Promote Competitive Opportunities For Small Customers.

#### B. ENSURE FAIRNESS IN REMAINING MONOPOLY AREAS

1. Protect Ratepayers From Cost Shifting
2. Minimize Or Reduce Price Discrimination
3. Minimize The Impact Of Recovery Of Uneconomic Costs

### III. UNIVERSAL SERVICE

#### A. UTILITY ASSURANCES FOR ALL CONSUMERS

1. Utility Protections
2. Obligation To Serve
3. Reliability

#### B. TARGETED ASSISTANCE FOR SPECIAL GROUPS

1. Assistance
2. High Cost

#### IV. CONSUMER PROTECTION

##### A. CUSTOMER CHOICE

1. Fair Marketing
2. Sales Practices
3. Consumer

##### B. TRANSACTION SAFEGUARDS

1. Privacy Protection
2. Billing Practices
3. Non-Discrimination

##### C. POST PURCHASE REMEDIES

1. Dispute Resolution
2. Enforcement

## I. OVERALL GOALS AND PUBLIC POLICY PRINCIPLES

The purpose of restructuring in the electric utility industry is to ensure and promote universal service in a more efficient manner than at present. Service to the public is the ultimate goal; competition is the means to that end

The most important step in restructuring is to establish market structures and conditions that create the greatest chance for vigorous competition in generation for all market segments. No amount of "consumer protection" or "targeted assistance" can make up for a market that suffers from fundamental competitive flaws.

Consumer protection remains an especially important concern as this utility is transformed into a commodity. Experience with electricity as a commodity is lacking both on the supply-side and the demand side, particularly as it affects direct sales to small customers.

In the long term electricity will not simply be a "commodity." It is too vital to daily life and economic activity to shed all aspects of utility treatment. Thus, a commitment to universal service must be preserved.

## II. PRINCIPLES FOR MARKET STRUCTURAL REFORM

A competitive market for electricity will be most dependent upon an effective supply-side because as a necessity, the demand for electricity is relatively inflexible (the price elasticity is low). A competitive market requires many producers who are seeking to win customers with quality services at prices that are driven by their costs. By this definition, it will be difficult to make the transition from the current structure and there will be a number of electricity market segments that will not be subject to effective competition. Public policy should promote competition wherever it can be effective and continue regulatory protections where it cannot. !!

### PROMOTING COMPETITION

**Minimize potential impacts of market power:** Vertical divestiture – separate ownership of generation from ownership of transmission and distributions facilities – is the best method of preventing abuse of affiliate relationships. If vertical divestiture is not required, extensive authority to prevent abuse of affiliate



transactions must be available including imposition of affiliate transaction rules and an affiliate code of conduct.

Regulators must have the authority to ensure non-discriminatory access to the transmission and distribution system. Non discriminatory access must include the imposition of "just and reasonable" rates for access.

Regulators must have the authority to monitor and investigate market conditions. The regulatory authority must include the ability to gather evidence, hold hearings and order corrective action, including penalties and restitution where abuse of market power is found.

Regulators must have the option of imposing price ceilings, conditions or limitations on sales and/or the ordering of divestiture. Regulators must have the authority to apply conditions or limitations on mergers or acquisitions within their jurisdiction, to the extent that the regulator finds it necessary to protect ratepayers, promote competition, or prevent anti-competitive actions.

**Promote Competitive Opportunities for Small Customers.** Restructuring must actively promote competition for residential ratepayers. There must be institutions and mechanisms in place to ensure that residential ratepayers can purchase low cost power. Facilitating the aggregation of small customers will reduce overhead costs.

#### **ENSURE FAIRNESS IN REMAINING MONOPOLY AREAS**

**Protect Ratepayers from Cost Shifting:** Restructuring should allow the integration and coordination functions now performed by utilities to be performed by the system operator with benefits credited to the customers who do not ~~to~~ elect suppliers. Ensure that costs associated with transactions, including additional facility and management costs are borne by the parties engaging in the transactions. Ensure that residential customers bear no more than a reasonable share of network facilities and other joint and common costs incurred to serve all customers. Retain regulatory oversight over the metering and billing process.

**Minimize or reduce price discrimination:** Prohibit shifting costs from high volume to low volume customers. Prohibit cherry picking by requiring service providers to serve all customers in their chosen service territory.

Residential customers should not subsidize utility entry into new, competitive

businesses and sufficient mechanisms to detect, prevent and correct such subsidization shall be established.

Rates should not be deaveraged or rebalanced, to prevent shifting of costs onto those customers without competitive alternatives.

Minimize the impact of recovery of uneconomic costs: Require shareholders to bear their fair share of stranded costs. Ensure that any stranded costs that are recovered are paid for equitably by all customer classes, allocated by usage of stranded assets. Allocate uneconomic costs based on electricity usage (kilowatt-hours consumed), not other formulae that shift excess costs onto residential customers. Prohibit the transfer of costs from generation assets to transmission and distribution assets as a way to collect stranded costs because such transfers allow large industrial customers to further avoid stranded costs, since they do not use the distribution system. Prohibit securitization of stranded costs because it locks in recovery of costs without an opportunity to "true-up" for over recovery.

### III. UNIVERSAL SERVICE

Universal service is the availability to all the people of Oklahoma of a reasonable level of electricity service at rates that are just, reasonable and affordable. Just, reasonable and affordable means that the cost of service does not strain household budgets and the price does not result in excess profits for electricity suppliers or subsidies for large consumers.

Both under the rubric of universal service or consumer protection, consumers must be assured at least the same wide availability and reliability of services as they receive today.

### UTILITY ASSURANCES FOR ALL CONSUMERS

*A* Utility Protections: Because electricity is a necessity all consumers must continue to receive utility protections. Terms and conditions must be regulated at the point of sale. Specific policies in this area include application, credit, deposit, disconnection, restoral of service, bill collection, dispute resolution, and partial payment policy.

Obligation to serve: The obligation to serve has been a cornerstone of utility

service and should remain so. Every consumer should have a provider who has the ultimate obligation to provide the basic necessity service. This would include the responsibility to maintain the facilities necessary to deliver electricity, as well as the actual purchase and delivery of electric service. The basic service package should be available to all consumers at a reasonable cost.

**Reliability:** The introduction of competition into utility industries invariably raises quality concerns. Two sets of policies to ensure quality should be pursued.

Licensing and certification should cover several broad areas. All companies should be required to demonstrate their technical, financial and managerial capabilities to provide the services for which they seek certification. Histories of prior complaints and problems should be made available. Bonding should be required to cover penalties for failure to meet reliability and marketing standards. Penalties should be known in advance.

Standards should be set and rigorously enforced. There are at least two crucial aspects to implement this policy. First, minimum standards should be established and imposed on the marketplace. Second, penalties for failing to meet quality standards should be severe.

### TARGETED ASSISTANCE FOR SPECIAL GROUPS

**Assistance:** Programs to ensure the availability of service for specific groups, such as low-income households and high cost areas, should receive significant attention in electricity restructuring. Hook-up assistance and bill payment assistance must be provided to low-income persons and difficult-to-serve areas, funded by a universal service fund.

Eligibility for funds should follow the eligibility for the telecommunications high cost and lifeline program.

**Funding:** Financial support for targeted assistance should be provided from a fund for the following: high cost areas, Lifeline for individuals, Unique costs resulting from the implementation of competition. All producers and classes of customers should contribute to the universal service fund equitably on a per-kilowatt-hour basis and producers should not shift their contribution to customers.

#### IV. CONSUMER PROTECTION

The cornerstone of consumer protection is consumer sovereignty. The ability of consumers to exercise informed choices in the marketplace is considered **essential** to the efficient functioning of a market.

##### CUSTOMER CHOICE

**Fair Marketing:** Consumers must be assured that as they are forced to make purchase decisions about electricity, they are provided at least the same level of protection from fraud and abuse as they have today. Marketing fairness involves protection against abuse of consumers and provision of reasonable opportunities to benefit from the introduction of competition into the industry. If the marketplace becomes fully competitive, these protections may no longer be necessary. Balloting should be considered as a vehicle for executing choice.

**Sales Practices:** Customers must be protected against abusive marketing practices. Regulations should explicitly outlaw slamming/cramming (changing service providers or adding services without the written permission of the customer) and other fraudulent or abusive marketing practices (pressure tactics, bait and switch tactics, negative options, etc.) Electric service providers should be prohibited from coercing or inducing their customers toward the purchase of non-regulated goods or services from affiliated companies. Rules should be enacted on notification and language requirements. Standards for information included in marketing should be set. A cooling off period should be specified.

**Consumer Education:** Vigorous consumer education campaigns should be conducted including the development of materials to enable consumers to make effective choices. Initially, consumers should be alerted to the fact that competition is coming. They must be made aware that new decisions are coming. Consumers must be provided information on price, quality and features that facilitate comparisons across providers. Third party information should be developed. //

Outreach efforts should be conducted. Each provider should be required to prepare a plan for consumer education. The plan should cover materials, outreach and monitoring. The Commissions should monitor the effects of education efforts

## TRANSACTION SAFEGUARDS

**Privacy Protection:** Information about billing, payment history and consumption patterns must be under the control of the customer. To the extent that exchange of such information is necessary for efficient billing, it should be made available to the parties with whom the customer has contracted for service.

**Billing Practices:** Delivery of bills and billing information should be stipulated. This should include frequency of billing and notice, information and billing detail, format and language requirements. Customers must receive fair and clear billing statements with uniform labels that disclose price, price risk, length of contract, supply mix and environmental pollutants and must have access to fair dispute resolution procedures; suppliers must comply with fair marketing practices.

**Non-discrimination:** To ensure that all classes of customers benefit from restructuring, discriminatory policies must be prevented and policies adopted that promote the following:

✓ relative fairness between customer classes to prevent large disparities in the quality or cost of service ~~must be resisted~~;

✓ non-discrimination within customer classes so that similarly situated customers must be treated similarly; and

✓ a user pays principle to ensure that entities or customer classes who cause costs to be incurred (who use facilities) and obtain the associated benefits should bear the corresponding cost burden.

## POST PURCHASE REMEDIES

**Resolution of Disputes:** Without effective dispute registering procedures, abusive practices are likely to persist because of the difficulty of pursuing post-purchase remedies. Therefore, it is important to provide support for the registering of complaints. There are four steps in the complaint process -- intake, investigation, resolution, and redress.

Companies should be required to provide 800 number services and notification of dispute procedures.

✓ The lead state consumer protection agency should also have a centralized dispute handling service.

✓ Policies to protect consumers from unfair or rapid loss of service or pressure tactics during the adjudication process must be in place.

✓ In the transition to competition, it is important to require all sellers to be certified and licensed. This will ensure that they are subject to the consumer protection policies. It is a central step in ensuring that they adhere to reliability policies and consumer protection policies.

✓ **Enforcement:** Each of the policy areas outlined is intended to prevent or discipline abusive practices without enforcement. This has not proven adequate in other industries. Therefore, vigorous enforcement is necessary.

✓ Penalties must be sufficient to discourage abuse.

✓ Exemptions of electricity services from consumer protection statutes should be lifted and electricity should be subject to the full force of consumer law.

✓ Customers must have a private right-of-action, including class actions, for enforcement and damages.

## The Real Consumer Protections in Electric Restructuring

### Rational Implementation

Conditions to be met prior to the opening of a competitive retail market:

- ✱ • An ISO/Transco which is independent, representative, and open.
- Require divestiture and/or other means to ensure the generation market is competitive on day one.
- Adopt rules regarding licensing, marketing to consumers, customer service and low income programs. Determine standard package for default service.
- ✱ • Require status of competition reports to legislature, including accounting of costs to implement retail competition, and a summary of the rate impact, by customer class, of retail competition implemented in other states.

### Minimize Impact of Stranded Costs

- Sharing between customers and the utility recognizes the inherent advantages and value of incumbency, in particular name identification and goodwill built up over years as a monopoly. Should the incumbent be chose default provider, additional advantages accrue. Finally, rather than micromanage the efficiencies which could be gained to reduce potential stranded costs, sharing gives the utility the strong incentive to be as efficient as possible and therefore reduce its share of "stranded costs."
- Divestiture of generation should be the first step. Divestiture will both offset potential stranded costs and increase the number of participants in the generation market, giving consumers a better chance to realize competitive service. If divestiture is not required, more regulatory intervention will be necessary to prevent abuse of market power in the generation market.
- ✱ • Ensure stranded costs assigned to customers are shared equitably by all customer classes. Industrial customers pay disproportionately little in California.
- Prohibit securitization because it locks in recovery of a number which is a guess/estimate.

#### Minimize Potential Impact of Market Power

- Divestiture
- Affiliate code of conduct
- Prohibit tying and other anti-competitive conduct
- Independent ISO
- Market monitoring
- Impose generation price caps if necessary

#### Minimize Price Discrimination Against Residential Customers

- Cap the gap
- Prohibit cherry picking
- Fair cost allocation
- Affordable standard package

#### Minimize Transaction Costs

- Allow and encourage aggregation, including municipal aggregation
- Keep ISO and other market development costs in check
- Regulate billing and metering
- Allocate costs of new transmission to cost causers

#### Implement Marketplace Rules and Customer Service Guarantees for Residential Customers

- Universal service
- Police the marketplace; require fair marketing, including terms, price, and emissions disclosures; prohibit slamming, cramming, "shocking," etc
- License providers; impose penalties for violations
- Determine customer service standards re: billing, fees, disconnections, etc

#### Safety and Reliability

- Service standards
- System planning
- Portfolio requirements (renewables, fuel diversity)
- Protocols for emergency situations



## Independent System Operators (ISO)

Independent System Operators (ISO) are increasingly taking over duties formerly handled through the regulatory process at PUCs. Consumers often do not have a voice at the ISO.

The following guidelines for ISOs are based on those recommended by the National Association of State Utility Consumer Advocates :

- The primary function of the ISO should be to ensure comparability and reliability of the transmission system.
- ✱ • Maintain regulatory oversight over all practices, tariffs, rules, requirements and procedures employed or enacted by the ISO. The ISO should not be allowed to automatically pass on costs to consumers.
- ✓ • Maintain due process protection, including the right of appeal by any affected party. Such oversight and due process should also include the ability to seek redress regarding the independence of the ISO.
- ✓ • The ISO must be required to meet strict standards of economical operation and investment, minimization of prices to all customer classes, open and comparable access, competitive neutrality and public accountability.
- ✓ • The cost of the ISO must be just and reasonable, and shared by all users in an equitable, non-discriminatory and competitively neutral manner.
- ✓ • The ISO must be subject to the state's open meetings and open records laws.
- ✓ • There must be a substantial and equitable role for consumer advocates and other stakeholders in the governance of the ISO. Currently OPUC has a designee who is non-voting. In California, for example, all classes of customers have voting representatives on the ISO Board and the Director of the Division of Ratepayer Advocates (the equivalent of OPUC) chairs the board.
- ✓ • If any power or authority is delegated to the ISO to prevent, identify and mitigate the exercise of market power it must not preempt the application of anti-trust law or the exercise of any powers granted the PUC.
- ✓ • The ISO must enforce compliance with reliability standards set by state and federal laws and regulations.
- ✱ • Employees of the ISO should be prohibited from having a financial interest in the economic performance of any power market participant.

# The Virginia Residential Electric Consumer Bill of Rights

## Supported by:

American Association of Retired Persons  
Association of Energy Conservation Professionals  
Southern Environmental Law Center  
Virginia Citizens Consumer Council  
VMH, Inc.  
Virginia Poverty Law Center  
Virginia State Conference NAACP

Virginia residential electric customers must benefit from any changes in the structure and regulation of the electric industry. We support the following eight principles:

### Benefits for residential customers.

- The safety, reliability and affordability of electric service to residential consumers should be improved by any changes in the electric industry. Lower rates for reliable service should be the goal, not restructuring or competition. Residential customers, who are the least attractive customers for power marketers, need easy formation of aggregators to act as purchasing agents for groups of small customers.

### Effective competitive first.

- Competition must be effective before protections are lifted or electricity generation is deregulated. The State Corporation Commission must have authority to order divestiture of electric generation plants to achieve a competitive market for generation prior to deregulation. Regulators must guard against abuses of market power and must enforce anti-trust laws.

### Universal service and affordable rates.

- Rates must be just and reasonable and affordable for all residential customers. A lifeline program funded by a competitively neutral mechanism should provide a basic level of service to low-income consumers. Residential customers must not pay more than their fair share of service costs.

## **Safe and reliable electric service.**

- The safety and reliability of the transmission and distribution systems and a firm, uninterrupted supply of power must be ensured. All sellers must be licensed and bonded to protect their customers. All service providers should be required to meet service quality standards. Independent System Operators (ISO) and Regional Power Exchanges (RPX) established to run a competitive generation market must be truly independent.

## **Consumer protection against fraud and unfair practices.**

- Laws against unfair and deceptive advertising, marketing and business practices must be enacted and enforced. Consumer complaint resolution services, protections against unauthorized switching of electric service, and protections against misuse of customer information must be provided. Rules governing billing and collection, disconnects and reconnections, and easy customer access to entities are needed.

## **Environmental impact, conservation and energy efficiency programs.**

- Electric generation mix and emissions disclosures are necessary for consumers to shop for environmentally sound providers. Restructuring of the generation market should not result in environmental degradation. Investments in energy efficiency and renewable energy resources must be increased.

## **Stranded costs/benefit/mitigation of costs.**

- Utilities have no right to recover inefficient costs or costs resulting from strategic actions or company mistakes. Utilities are not entitled to compensation for risks for which they have been previously compensated. New revenue opportunities must be taken into account. Electric companies must reduce costs that may be uneconomic in a competitive market (mitigation). We oppose securitization of stranded cost. Collection of stranded cost from industrial, commercial and residential customers must be equitable.

## **Consumer information and education**

- Consumers, who have no experience of "shopping" for electricity, must be educated and provided reliable unbiased information. Price and quality information that is understandable and useful to consumers must be provided for comparison-shopping. Standardized billing and marketing information is needed, such as per kilowatt-hour price, contract terms and conditions.